

Application Number 09/729,034  
Amendment responsive to Office Action mailed April 5, 2007

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### REMARKS

This Amendment is being filed with a request for continued examination (RCE) and constitutes the required submission. This Amendment is responsive to the final Office Action mailed on April 5, 2007. Applicants have amended claims 12, 13, 19, 20, 21, 22 and 23 and added new claims 34-36. Claims 12-36 are now pending.

In the Final Office Action, the Examiner rejected claims 12-32 under 35 U.S.C. 103(a) as being unpatentable over Mangram et al. (Guideline for prevention of surgical site infection) ("Mangram") in view of Ormond-Walshe, Sarah (Computerized databases in infection control) (Ormond-Walshe) and further in view of Blume (US 6,157,853) and Mushabac (US 5,562,448).

Applicants respectfully disagree with the Examiner's rejections for the reasons advanced in Applicants' previous response. Applicants incorporate the arguments of the previous response herein so that such arguments are preserved for an Appeal, if an Appeal becomes necessary.

Nevertheless, Applicants have further amended all pending claims at this time in the interest of advancing prosecution of this case toward immediate allowance. In addition to the arguments presented in the previous response, Applicants request the Examiner's consideration of the arguments below, which address the limitations added to the claims in this Amendment.

Applicants' pending claims concern computer-implemented techniques and systems for managing risks of surgical site infection in a surgical procedure. For example, claim 12 recites a computer-implemented system for managing the risk or occurrence of surgical site infection incident to a surgical procedure. The computer-implemented system of claim 12 comprises software that identifies a plurality of stages of operative care associated with the surgical procedure, including at least a preoperative stage, an intraoperative stage and a postoperative stage. The software also identifies one or more points-of-care within each identified stage of operative care associated with the surgical procedure, and for each point-of-care associated with the surgical procedure, identifies one or a plurality of health care delivery practices associated with the surgical procedure that pose a source of measurable risk of surgical site infection, and identifies one or more compliance indicators associated with the surgical procedure for the one or plurality of health care delivery practices associated with the surgical procedure within each point-of-care associated with the surgical procedure whereby there is provided the ability to monitor the compliance indicators. For each of the compliance indicators, the software generates

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a flag when a given health care practice associated with the surgical procedure is not in compliance with a rule to thereby align the health care delivery practices associated with the surgical procedure into rule compliance and to provide a perioperative process map of delivery practices spanning the plurality of stages of operative care associated with the surgical procedure to thereby manage the risk or occurrence of surgical site infection incident to the surgical procedure.

In this Amendment, Applicants have further amended independent claim 12 to require that the health care delivery practices associated with the surgical procedure that pose a source of measurable risk of surgical site infection are selectable for a given health care facility. In this way, the software is flexible and configurable such that different health care facilities can use the same software, and configure the software by selecting specific health care delivery practices that require scrutiny by the software. This feature is discussed in Applicants' original specification at page 7, line 25 to page 8, line 10.

In addition, Applicants have also further amended independent claim 12 to require that at least some of the compliance indicators quantify a measure of quality associated with delivery of corresponding health care practices. This feature is discussed on page 10, line 43 to page 11, line 2, and is also discussed on page 12, lines 23-30. According to the amended claim 12, at least one of the compliance indicators does not merely indicate whether a health care practice was performed, but provides a quantified measure of the quality associated with the delivery of the health care practice.

Applicants believe that each of these amendments to claim 12 provides clear distinctions over the applied prior art.

Claim 13 recites a system for managing the risk or occurrence of surgical site infection incident to a surgical procedure, the system comprising a perioperative process map of practices for the delivery of the surgical procedure, the map comprising a plurality of health care delivery practices associated with the surgical procedure and one or more indicators of compliance with the one or more health care practices, and means for monitoring the compliance indicators to achieve a desired level of management of the risk of surgical site infection for the surgical procedure, wherein the means for monitoring the compliance indicators generates a flag when a

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given health care practice associated with the surgical procedure is not in compliance with a rule to thereby manage the risk of surgical site infection incident to the surgical procedure.

Like claim 12, claim 13 has been amended to require that the health care delivery practices associated with the surgical procedure that pose a source of measurable risk of surgical site infection are selectable for a given health care facility, and that at least some of the compliance indicators quantify a measure of quality associated with delivery of corresponding health care practices. As noted above, these amendments provide clear distinctions over the applied prior art.

Claim 22 recites a computer-implemented method for managing risks of surgical site infection incident to a surgical procedure. According to claim 22, the method includes evaluating a practice associated with the surgical procedure that poses an infection risk during a stage of the surgical procedure, storing data indicative of the practice associated with the surgical procedure as executed by one or more persons involved with the surgical procedure, and identifying when the data indicative of the practice associated with the surgical procedure is not in compliance with a rule established for the practice to thereby manage risks of surgical site infection incident to the surgical procedure.

Like the other independent claims, claim 22 has been amended. Specifically, claim 22 now further requires selecting for a given health care facility a plurality of health care delivery practices associated with the surgical procedure that pose a source of measurable risk of surgical site infection. This feature provides flexibility and configurability to the computer-implemented method. In addition, claim 22 has also been amended to clarify that the compliance indicator quantifies a measure of quality associated with delivery of the given practice. Thus, the compliance indicator does not merely indicate whether a health care practice was performed, but provides a quantified measure of the quality associated with the delivery of the health care practice.

Applicants have also added new dependent claims 34-36 to the application, which depend upon claim 22. Claim 34 requires the compliance indicator to define a value within a pre-established quality scale, and claim 35 specifies that the quality scale ranges from 1 to 10. These claims find support on page 12, lines 23-27.

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New claim 36 further requires the generation of a report that represents a compilation of measurement data associated with the surgical procedure. This additional feature is supported in Applicants' original disclosure at page 12, lines 27-30. The applied references fail to disclose or suggest the inventions defined by Applicants' new claims, and provide no teaching that would have suggested a rationale to arrive at the claimed inventions.

New independent claim 37 is a system claim in means plus function format according to 35 U.S.C. 112, sixth paragraph. The features recited in claim 37 are similar to those of method claim 22.

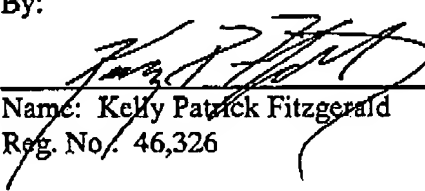
All claims in this application are in condition for allowance. Applicants respectfully request reconsideration and prompt allowance of all pending claims. Please charge any additional fees or credit any overpayment to deposit account number 50-1778. The Examiner is invited to telephone the below-signed attorney to discuss this application.

Date:

By:

June 5, 2007

SHUMAKER & SIEFFERT, P.A.  
1625 Radio Drive, Suite 300  
Woodbury, Minnesota 55125  
Telephone: 651.735.1100  
Facsimile: 651.735.1102

  
Name: Kelly Patrick Fitzgerald  
Reg. No. 46,326